



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 23, 2012

Mr. Neale Potts
Messer, Potts & Messer, P.C.
P.O. Box 969
Belton, Texas 76513

OR2012-02811

Dear Mr. Potts:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 450143.

The Belton Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. You state the department will release some information to the requestor, including the submitted Crash Report Form CR-3, upon payment. *See* Transp. Code § 550.065(c)(4) (officer's accident report must be released to person who provides two of following three pieces of information: date of accident; name of any person involved in accident; specific location of accident). You claim the remaining submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information contains a court-filed document. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record," unless the information is made confidential under the Act or other law. Gov't Code § 552.022(a)(17). The court document we marked is subject to section 552.022(a)(17). You seek to withhold this document under section 552.108 of the Government Code, which is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.108; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). As such, section 552.108 does not make information confidential under the Act. Therefore, the

department may not withhold the marked court-filed document under section 552.108. However, because section 552.130 of the Government Code makes information confidential under the Act, we will consider the applicability of this exception to the court-filed document.¹

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(2). The department must withhold the information we marked in the court-filed document under section 552.130. As you raise no further exceptions against disclosure of the court-filed document, the department must release the remaining information in the court-filed document pursuant to section 552.022(a)(17) of the Government Code.

Next, we address your claim under section 552.108 of the Government Code for the remaining information at issue. Section 552.108(a)(1) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” *Id.* § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information at issue relates to a pending criminal investigation. Based on your representation, we conclude section 552.108(a)(1) is generally applicable to the remaining information at issue. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov't Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Accordingly, except for basic information, the department may withhold the remaining information at issue under section 552.108(a)(1).

In summary, the department must withhold the information we marked in the marked court-filed document under section 552.130 of the Government Code and release the remaining information in the court-filed document pursuant to section 552.022(a)(17) of the Government Code. Except for basic information, the department may withhold the remaining information at issue under section 552.108(a)(1) of the Government Code.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/agn

Ref: ID# 450143

Enc. Submitted documents

c: Requestor
(w/o enclosures)